

In re: Hargett, Jr. et al.
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Remarks

Applicants appreciate the Examiner's careful study of the pending application and claims.

In this non-final Office Action, the Examiner objected to the specification under 35 U.S.C. §132 for the introduction of new matter. Specifically, the Examiner states that the "added material is the limitation that the inner layer 'consists essentially of' a chemically inert pressure resistant structural polymer is new matter, because the original disclosure only states that the inner layer comprises a chemically inert pressure resistant structural polymer." The Examiner further objected to Claims 4-5, 7-8, and 13-15 under 37 CFR §1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

The Examiner rejected Claims 1, 4-8, 13-15, and 36 under 35 U.S.C. §112, first paragraph. The Examiner states that "The limitation that the inner layer 'consists essentially of' a chemically-inert pressure resistant structural polymer described in Claims 1 and 38 are new matter because the original disclosure fails to teach the inner layer as being formed of only a chemically-inert pressure resistant structural polymer." The Examiner also states that "the claims limiting the scope of the inner layer to only a chemically inert pressure resistant structural polymer and ingredients that don't materially affect the basic and novel properties of the claimed structure presents new matter in the application."

The Examiner further rejected Claims 13-15 under 35 U.S.C. §112, second paragraph, for depending from a cancelled claim.

The Examiner further maintained the previous rejection under 35 U.S.C. §102 as anticipated by U.S. Pat. No. 5,556,673 to Giraud.

The Examiner also indicated allowable subject matter. Claim 38 is allowed as it stands. Claims 5-8 and 13-15 would be allowable if rewritten to overcome the claim objections, to include all of the limitations of the base claim and any intervening claims, and the rejections under 35 U.S.C. §112, first paragraph.

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In response, Applicants have amended independent Claim 1 to include the recitations of Claims 4 and 6, now cancelled. Claim 7 is rewritten as an independent claim and includes the recitations of original Claims 1 and 7. Claim 5 is currently amended to depend from Claim 1 and Claims 13-15 are currently amended to ultimately depend from Claim 38.

Regarding the objection under 35 U.S.C. §132 for the introduction of new matter, Applicants respectfully submit that this objection is inappropriate in light of MPEP §706.03(o) and MPEP §2111.03. The "consisting essentially of" language is narrower in scope than the "comprising" language it replaced. Therefore, no new matter is introduced; rather, the disclosed matter is separated into matter that is a "basic and novel characteristic" of the claimed invention and matter that does not materially affect the "basic and novel characteristic" of the claimed invention.

Likewise, Applicants respectfully submit that the rejection of Claims 1, 4-8, 13-15, and 36 under 35 U.S.C. §112, first paragraph, for the inclusion of new matter is also inappropriate. The Examiner contends that "the inner layer 'consists essentially of' a chemically-inert pressure resistant structural polymer described in Claims 1 and 38 are new matter because the original disclosure fails to teach the inner layer as being formed of only a chemically-inert pressure resistant structural polymer." Applicants assume that the Examiner intends to refer to Claim 36, because Claim 38 is allowed. The Examiner's point, however, is moot, because the disclosure does in fact teach the layer as being formed of a chemically-inert pressure resistant structural polymer. The contention that the "consists essentially of" language introduces new matter is to say that "consists essentially of" is not disclosed or is wholly unsupported. This is clearly not the case. Thus, Applicant respectfully requests that the objection under 35 U.S.C. §132 and the rejection under 35 U.S.C. §112, first paragraph, for the inclusion of new matter be withdrawn.

Regarding the objections to Claims 4-5, 7-8, and 13-15 under 37 CFR 1.75(c), Applicants have cancelled Claim 4. Claim 5 properly depends from independent Claim 1. Claim 13 is currently amended to properly depend from independent Claim 38, and Claims

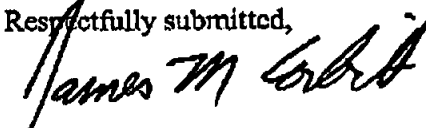
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14-15 properly depend from Claim 13. Therefore, Applicants respectfully request that this objection be withdrawn. Claim 13 as amended further vacates the rejection of Claims 13-15 under 35 U.S.C. §112, second paragraph, for being dependent from a cancelled claim. Claim 13 as amended and Claims 14-15 are now ultimately dependent from allowed Claim 38.

Regarding the Examiner's maintenance of the 35 U.S.C. §102 rejection of Claims 1, 4, and 36 as anticipated by Giraud, independent Claim 1 is currently amended to incorporate the recitations of Claims 4 and 6, now cancelled. Giraud fails to include outer and inner layers formed of tetrafluoroethylene polymer. Thus, Claims 1 and 36 do not read on the Giraud patent and Applicants respectfully request that the 35 U.S.C. §102 rejection be withdrawn.

Therefore, Applicants submit that Claims 1, 5, 7-8, 13-15, 36, and 38 overcome the objections and rejections applied to date. Allowance of the claims is thus respectfully requested at the earliest possible opportunity.

Respectfully submitted,



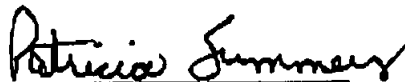
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Chris Bruenjes, at centralized facsimile number 703-872-9306 on November 8,
2004.



Patricia Summers